IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

APPEAL FROM ORDER NO. 920 OF 2007

IN

NOTICE OF MOTION NO. 3684 OF 2007

IN

L.C. SUIT NO. 4006 OF 2007

Hansa M. Keni @ Solanki ... Appellant
(Org. Plaintiff)

Versus

The Municipal Corporation of
Greater Bombayh. ... Respondents
(Org. Defednants)

Mr. S.K.Chaurasia, Advocate, for the appellant.
Mrs.Geeta Joglekar, Advocate, for B.M.C.

CORAM: J.H.BHATIA,J.

DATE: 12th December,2007.

P.C.

1. Heard learned Counsel for the parties and perused the record.

2. On 21.8.2007, a notice came to be issued by the Municipal Corporation to the present appellant that there was a complaint that certain huts were raised on the open land out of plot No.126 leased out to Sion Kamgar Co-operative Housing Society and one of the huts was in her occupation. She was called upon to produce necessary documents to show since when the structure was in existence. In response to that she submitted a reply dated 24th August 2007 along with certain documents. The Assistant Commissioner of Municipal Corporation was not satisfied with the said record and therefore on 6.11.2007, he issued a notice to the appellant informing her that the documents produced by her were not sufficient to prove that the structure was in existence since prior to 1.1.95. Therefore, the appellant was asked to demolish the structure within 7 days failing which the structure would be demolished and removed by the Corporation. In view of this notice, the appellant filed the suit for perpetual injunction. She also took out Notice of Motion seeking temporary injunction restraining the Corporation from demolishing the suit structure. After hearing the parties, the learned trial

Court rejected the Notice of Motion. Hence, she preferred the present Appeal.

3. The learned Counsel for the appellant has taken me through the documents relied upon by the appellant. First of them appears to be the affidavit filed by Smt. Jankibai Ramchandra Keni in October 1992 wherein she said that she is in occupation of the hut near Shivaji Nagar Zopadpatti, near Kamgar Co-op. Housing Society, Sion Bhandarwada, Bombay 400 022 and it has been censused on 13.12.1990. She has produced the receipt for the same. The next is the ration card issued in the name of the appellant on 28.7.1999 wherein her address is shown as Shivaji Nagar Zopadpatti. It is material to note that the identity card issued by the Election Commissioner to her on 20.11.94 reveals that she was residing at Scheme 6, Road No.29, Municipal Block, Sion. It is material to note that the hut in dispute is situated on plot No.126. The address given on the identity card is different. Not only this in the identity card, her maiden name is Solanki Hansa. It is also material to note that her husband Madan Ramchandra Keni also filed a suit before the City Civil court. He has also produced a separate Ration Card for himself. It indicates that she has taken a separate ration card with the intention to grab the land in the hutment

areas. She has produced a receipt about survey of hutments undertaken in the year 2000. That is of no relevance because the protection has been granted to the hutments which came into existence on 1.1.95. Therefore, she is not entitled to get any protection. I find no fault in the impugned order.

4. In the result, the Appeal stands dismissed.

5. As the Appeal itself is dismissed, the C.A. No.1270 of 2007 does not survive and stands disposed of.

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(J.H.BHATIA,J.)